

THE HON'BLE SRI JUSTICE C.V. RAMULU

Tuesday, 21st day of November ,2006

W.P.No.11538 of 1996

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Between :

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M/s. Blueshield Pvt. Limited,
Kirol, Vidyavihar (W), Bombay-86,
rep. by its Senior Manager
(Personnel & HRD), Hemant R.Shinde ... Petitioner

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and

The Authority under Section 20(2)
of the Minimum Wages Act,1948 &
Assistant Commissioner of Labour,
Nellore and another ... Respondents

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ORAL ORDER:

This Writ Petition is directed against an Order dated 20-5-1996 made in M.W. Case No.3 of 1996 on the file of the 1st respondent.

The petitioner is the Management. Respondent No.2 is the applicant before the Authority under the Minimum Wages Act. Respondent No.2 claimed that he is working as a Medical Service Representative in the petitioner-company, but the company was not paying minimum wages as per the Orders issued by the Government from time to time. Therefore, he made several representations regarding payment of minimum wages, but the management failed to pay the same. Hence, he filed an application claiming an amount of Rs.16,626.50 ps as difference of wages from 1-4-1991 to 1-10-1995. Along with the claim petition, he also filed an application for condonation of delay in filing claim petition. A counter affidavit has been filed by the Management stating that the 2nd respondent herein was appointed at Bombay and all his remuneration and other payments are effected from there; as such, the Authority has no jurisdiction to try the case. After considering both oral and documentary evidence, the Authority came to the conclusion that the 2nd respondent-workman was a Medical Representative with Nellore as Headquarters and having sales promotional activity in the districts of Nellore and part of Chittoor, is wholly and principally employed for

promotional activity of the business of the Management. Therefore, lack of jurisdiction, as pleaded by the Management, does not arise. Further, on examination of Exs.A1 and A2, it came to the conclusion that the Management paid less than the minimum wages to the workman. The workman is working as a Medical Sales promotion person, which comes under commercial establishment and as per G.O.Ms.No.33, dated 6-3-1991, the Management is directed to pay an amount of Rs.8,211-50 in addition to compensation of 10 times i.e. Rs.82,715/-, totaling to Rs.90,326.50 ps , within 30 days. Aggrieved by the same, the present Writ Petition is filed.

Having heard the learned counsel for the parties and having regard to the facts and circumstances, I am of the opinion that though the findings arrived at by the Authority that the 2nd respondent was paid less than what he was entitled to as a minimum wage as per the Orders issued by the Government from time to time are correct, imposing of penalty of 10 times against the said amount seems to be most unreasonable, particularly when the employee approached the authority with delay. At the time of admission of the Writ Petition, an interim order was made on 19-6-1996 suspending the impugned Order passed by the Authority, subject to the condition that the petitioner deposits an amount of Rs.8,211-50 within two weeks. On a vacate petition being filed by the workman, the said interim order was made absolute on 30-7-1996, subject to condition of the petitioner depositing 25% of the compensation awarded by the Authority. However, the Management filed a Writ Appeal in W.A.No.1005 of 1996 and a Division Bench of this Court modified the said Order dated 30-7-1996 to the effect that the petitioner shall deposit 20% of the compensation. Learned counsel for the petitioner states that the said Order has been complied with insofar as depositing of difference of

wages of Rs.8,211.50 and 20% of the compensation to the credit of M.W.Case No.3 of 1996. Respondent No.2 has already withdrawn the said amount and further he had also withdrawn half of the 20% of the amount of compensation deposited by the petitioner, as directed by this Court. In view of the above, I deem it appropriate to modify the Order passed by the Authority as under:

“The opposite party is directed to pay an amount of Rs.8,211.50 in addition to compensation of 2½ times i.e. Rs.20,528.75 totalling to Rs.28,740.25 within 30 days from the receipt of this order”.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

21-11-2006

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